

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

CDK GLOBAL, LLC, as successor-in-interest  
to ADP DEALER SERVICES, INC.,

Plaintiff,

-against-

TULLEY AUTOMOTIVE GROUP, INC. and  
JOHN DOE CORPORATIONS 1-5,

Defendants.

Action pending in the United States  
District Court for the District of New  
Jersey (15-cv-03103)

TULLEY AUTOMOTIVE GROUP, INC.,

Movant,

-against-

PERFORMANCE CHEVROLET, INC.,

Respondent.

17-mc-\_\_\_\_\_

**DECLARATION OF  
CARMINE J. CASTELLANO**

CARMINE J. CASTELLANO declares as follows:

1. I am associated with the law firm of Hodgson Russ LLP, counsel for Tulley Automotive Group, Inc. ("Tulley") in this miscellaneous case.
2. This declaration is submitted in support of Tulley's motion for an order (a) pursuant to Federal Rules of Civil Procedure 37 and 45, compelling Performance Chevrolet, Inc. ("Respondent") to produce documents and information responsive to the document requests set forth in the subpoena *duces tecum* issued to it (the "Subpoena") in connection with litigation pending in the United States District Court for the District of New Jersey (15-cv-01303) (the "New Jersey Action"), or, in the alternative, (b) transferring Tulley's motion to compel to

Magistrate Judge James B. Clark, III in the above-captioned action in the United States District Court for the District of New Jersey, pursuant to Federal Rule of Civil Procedure 45(f), and (c) granting such other and further relief as the Court deems just and proper.

3. Attached as Exhibit A is a true and correct copy of Tulley's First Amended Answer and Counterclaims in the New Jersey Action.

4. Attached as Exhibit B is a true and correct copy of the March 3, 2016 Letter Order in the New Jersey Action.

5. Attached as Exhibit C is a true and correct copy of the April 29, 2016 Opinion in the New Jersey Action.

6. Attached as Exhibit D is a true and correct copy of Respondent's First Amended Complaint against CDK.

7. Attached as Exhibit E is a true and correct copy of the Subpoena.

8. Attached as Exhibit F is a true and correct copy of CDK's objections to the Subpoena.

9. Attached as Exhibit G is a true and correct copy of Tulley's July 12, 2016 letter motion to compel in the New Jersey Action.

10. Attached as Exhibit H is a true and correct copy of the stipulation between Tulley and Respondent.

11. Attached as Exhibit I is a true and correct copy of the January 10, 2017 Order denying Tulley's motion to compel in the United States District Court for the Eastern District of California (16-mc-0191) without prejudice.

12. Attached as Exhibit J is the April 30, 2013 decision in the action entitled *ADP Dealer Services, Inc. v. Wright Automotive, Inc.*, Docket No. MRS-L-1622-12 (Superior

Court of New Jersey, Morris County) (“*Wright*”) granting defendant’s motion to compel CDK to produce prior customer complaints.

13. Attached as Exhibit K is the April 30, 2013 decision in *Wright* denying CDK’s cross-motion for a protective order.

14. I declare under the penalty of perjury that the foregoing is true and correct.

Dated: January 31, 2017

A handwritten signature in blue ink, appearing to read 'C. Castellano', is written over a horizontal line.

Carmine J. Castellano